



**CALIFORNIA STATE
PUBLIC WORKS BOARD**

ARNOLD SCHWARZENEGGER, GOVERNOR

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STATE PUBLIC WORKS BOARD

Reconvened Adjourned Meeting

November 10, 2004

MINUTES

PRESENT:

Mr. Bob Campbell, Chief Counsel, Department of Finance

Ms. Cindy McKim, Acting Chief Financial Officer, Department of Transportation

Mr. Barry Hemphill, Deputy Director, Telecommunications Division, Department of General Services

ADVISORY MEMBER:

Director, Employment Development Department

LEGISLATIVE ADVISORS:

Assembly Member Darrell Steinberg

Assembly Member Wilma Chan

Assembly Member Lloyd E. Levine

Senator Betty Karnette

Senator Wesley Chesbro

Senator Gilbert Cedillo

STAFF PRESENT:

Michael Carter, Assistant Administrative Secretary, State Public Works Board

Rocel Bettencourt, Assistant Administrative Secretary, State Public Works Board

Deborah Cregger, Legal Counsel, State Public Works Board

Kathy Chovan, Legal Counsel, State Public Works Board

Peggy Palmertree, Acting Executive Secretary, State Public Works Board

Sarah Mangum, Budget Analyst, Department of Finance

Brian Dewey, Budget Analyst, Department of Finance

Debbie Dills, Budget Analyst, Department of Finance

Chris Lief, Budget Analyst, Department of Finance

Peter Brown, Budget Analyst, Department of Finance

OTHERS PRESENT:

Sabrina Winn, Department of General Services-RES/PSB

Cynthia Spita, Department of Parks and Recreation

Warren Westrup, Department of Parks and Recreation

Rob Kane, Department of Parks and Recreation

CALL TO ORDER AND ROLL CALL:

Mr. Campbell, Chairperson, Chief Counsel, Department of Finance at 1:30 pm called the adjourned meeting to order. Mr. Michael Carter, Assistant Administrative Secretary for the State Public Works Board called the roll. A quorum was established.

Mr. Campbell stated as we are reconvening the November 5, 2004 meeting, there are no minutes to approve. Accordingly, we can move directly to the only item on the agenda which is the request for the Public Works Board to authorize the acquisition of real property currently owned by the Hearst Holdings, Inc. through the acceptance of a no-cost acquisition. As most if not all of you are aware, this request was discussed at the November 5, 2004 regular meeting in great detail, PWB staff presented their staff analysis and public testimony was taken. There was a wealth of information shared and statements of support submitted by a significant number of interested parties. Again, the Board appreciates the past, current and future efforts of these entities and individuals, and we have very clearly heard your expressions.

We are here today because PWB staff requested additional time to review the numerous documents associated with the transaction in order to conduct proper due diligence and provide assurances that their terms and conditions are in the best interests of the State.

Mr. Carter noted that given the extensive discussions on the Hearst transaction at the November 5, 2004 meeting that we move directly to an overview of PWB staff's review of the documents followed by public comments.

Mr. Carter indicated that Ms. Kathleen Chovan, PWB Counsel would present an overview of the documents including a brief description of their contents and an assessment regarding the appropriateness of the terms and conditions from a due diligence perspective.

Ms. Chovan discussed the PWB staff's role in reviewing the transaction and related documents to determine if, collectively, the documents provide the benefits of the bargain that the State intended to achieve. In other words, do the documents say what they are intended to say. Another objective was to review the documents and determine potential liabilities to the State, making sure that the liabilities are minimized or that any liability assumed by the State is the result of confirmed consent and that the Board is aware of any liability being assumed.

Ms. Chovan gave a brief overview of the three properties being acquired. The first, a two-acre parcel on Highway One associated with the Visitor Center for which the State is acquiring an Irrevocable Offer to Dedicate. The gist of this agreement being if the State so chooses, it can acquire two acres at no cost to expand the Administrative facilities at the Visitor center. The parcel would be for Parks use only with no public access. This agreement was straightforward and there were no major issues with the documents.

The remaining two agreements were more complicated and required more analysis. Regarding the 832 acres to be acquired in fee title on the west side of Highway One, immediately before the State would take title, and as an over-all part of the transaction, Caltrans will obtain a scenic easement from Hearst over the 832 acres. That easement to a large extent controls the level of activity that can be conducted on the 832 acres, even though parks will eventually own fee title. Accordingly, PWB staff reviewed the Caltrans proposed easement, Conservation Easement and the grant deed to determine the rights and obligations of Parks as the proposed new owner.

The other property Parks is to acquire is a public access easement on the west side of Highway One for which Hearst will retain title. Caltrans is also obtaining a separate easement for Hearst on these parcels prior to the State giving public access easement. Therefore, staff reviewed the Caltrans easement in conjunction with the Parks public access easement to determine what activities were allowed and who was responsible for various issues.

As a result of our review there were a few areas where staff felt it was unclear on the face of the documents or there were liabilities that needed to be clarified or acknowledged. Staff worked with Parks representatives, the Hearst Corporation, Resources Agency and the American Land Conservancy, and an agreement was reached such that all issues were resolved to Board staff's satisfaction.

Ms. Chovan noted that the Staff report recommends approval assuming that the documents as reviewed by staff, do not change significantly. If significant changes are made before they are signed, the documents must come back to the Board. Also, it was noted that there was one area that had outstanding issues related to the scenic easement on the 832 acres as it relates to public access. PWB staff are aware of the issues and are relying on Parks staff and the Coastal Commission to resolve them. These issues will not be brought back to the Board unless they cannot be resolved with the acknowledgement that most of these issues have already been resolved.

Mr. Campbell stated that before taking the motion, again he would like to express the Board's appreciation for the efforts of everyone and the dedication to making the Hearst transaction a reality. This transaction will surely stand out as one of the most unique and valuable transactions for the State of California and one that many of our citizens can enjoy into the future. Without objection, we are ready for the motion as follows:

Recommend approval of the acquisition of real property through the acceptance of a no-cost acquisition including 832 acres to be acquired in fee located on the west side of Highway 1, limited public access to 707 acres of Hearst retained lands at San Simeon Point, Ragged Point, Pico Cove, and Old San Simeon Village Conservation Area and two acres to be acquired in fee located on the east side of Highway 1 to be conveyed and used solely and perpetually for the expansion of the Department of Parks and Recreation's administration facilities and other specifics referenced in the staff analysis. The acceptance of the no-cost acquisition is also contingent upon conditions specified in the staff analysis contained in this item regarding the final form of the documents not substantially changing, in the opinion of SPWB staff, from the form of the documents, which served as the basis for the Staff's recommendation for approval, unless subsequent Board approval is obtained.

A motion to accept staff recommendation based on the contingencies was made by Mr. Hemphill and Second by Ms. McKim to approve Action Item #14.

Action Item #14 was approved by a 3-0 vote.

NEXT MEETING:

Mr. Carter noted that the next regularly scheduled meeting would be Friday December 10, 2004 at 10:00 am at the State Capitol in Room 112.

Having no further business, the meeting was adjourned at 1:40 pm.

ACTION ITEM

ACTION – ITEM 14

DEPARTMENT OF GENERAL SERVICES (1760)
DEPARTMENT OF PARKS AND RECREATION (3790)
WILLIAM RANDOLPH HEARST MEMORIAL STATE BEACH, HEARST RANCH
SAN LUIS OBISPO COUNTY
DPR Parcel Number 8134, DGS Parcel Number 10257

Authority: Public Resources Codes 5005

- a. **Authorize acquisition of real property through the acceptance of a no-cost acquisition**

APPROVED AT ADJOURNED MEETING
3/0

ACTION ITEM

STAFF ANALYSIS – ITEM 14

Department of General Services
Department of Parks and Recreation
William Randolph Hearst Memorial State Beach, Hearst Ranch

Action requested

The requested action will authorize the acquisition of real property through the acceptance of a no-cost acquisition.

Scope Description

This project is within scope. This request will authorize the no-cost acquisition of approximately 832 acres of vacant, primarily coastal land along a thirteen-mile stretch of Highway 1. The request will also authorize the no-cost acquisition of a 2-acre Visitor Center site located east of Highway 1 and public access easements to 707 acres of land retained by Hearst Holdings, Inc. (Hearst) at San Simeon Point, Ragged Point, Pico Cove, and Old San Simeon Village Conservation Area. The property will be an addition to William Randolph Hearst Memorial State Beach. The acquisition of this undeveloped land will provide habitat and viewshed protection as well as access to pristine beaches from Highway 1. A portion of the area will be incorporated into the California Coastal Trail.

This project represents only a portion of the multiple components comprising the larger Hearst Ranch Conservation Transaction, which encompasses approximately 81,177 acres. The approval authority for the majority of the Hearst Ranch Conservation Transaction resides with the Wildlife Conservation Board (WCB), the State Coastal Conservancy (SCC) and the California Department of Transportation (Caltrans), which are providing the state funding for the

overall transaction. An additional no-cost acquisition by DPR of approximately 117 acres of Hearst property is planned for future Board consideration.

CEQA

A Notice of Exemption was filed with the State Clearinghouse on October 8, 2004, and the waiting period will expire on November 12, 2004.

Project Schedule

The project schedule is as follows:

The anticipated close of escrow is December 2004.

Condition of Property

Department of General Services (DGS), Environmental Services Section (ESS) staff conducted a site visit to the properties being acquired in fee title at the Hearst Ranch on September 23, 2004. The DPR acquisition consists of approximately 954 acres of undeveloped land consisting of 832 acres of coastline west of Highway 1, 117 acres of the Junge Ranch west of Highway 1, and approximately 5 acres (Visitor Center Expansion Envelope area) east of Highway 1 adjacent to the Visitor Center/Administrative Complex for the Hearst San Simeon State Historical Monument. The subject properties are located on either side of Highway 1, north of San Simeon, San Luis Obispo County, California.

A Phase I Environmental Site Assessment (ESA) report prepared by Robison Engineering Company September 11, 2003, was reviewed by ESS staff and found to be in accordance with American Society for Testing and Materials (ASTM) standards. No evidence of recognized environmental conditions in connection with the property was identified in the ESA report.

The site visit revealed no improvements, e.g., industrial uses, fuel storage, waste disposal, etc., on the property that would raise a concern for migration of hazardous materials. No potential problems with hazardous materials, e.g., ground and/or vegetation staining were observed during the ESS site visit and the property is compatible with the proposed future use.

DPR No-Cost Acquisitions

1. 832 acres of this no-cost acquisition to be acquired in fee are located on the west side of Highway 1 and will be subject to a scenic conservation easement to be held by Caltrans. The conservation easement will serve to protect the scenic viewshed, as observed from Highway 1, and therefore the property will be largely retained in its existing condition.
2. Limited public access to 707 acres of Hearst retained lands at San Simeon Point, Ragged Point, Pico Cove, and Old San Simeon Village Conservation Area will also be acquired by DPR as part of this no-cost acquisition.
3. Two acres of this no-cost acquisition to be acquired in fee is located on the east side of Highway 1 and will be conveyed to be used solely and perpetually for the expansion of the DPR's administration facilities adjacent to the Hearst Castle Visitors Center. Hearst will irrevocably offer to dedicate by grant deed to DPR up to 2 acres of an identified Expansion Envelope area comprised of approximately 5 acres. No public access will be allowed on this acreage. This site will not be encumbered by the East Side conservation easement (see discussion below), although Hearst will have the power to terminate the State's interest in the property if the State breaches any covenants or restrictions contained in the Corporation Gift Deed for this parcel.

DPR has not proposed a Property Acquisition Agreement (PAA) to formalize the agreement with Hearst regarding the gift of fee title of 832 acres. A Corporation Gift Deed, along with written instructions to the escrow company, is intended to be the only documents used for this transfer. Normally, a PAA is utilized for the purchase of real property and sometimes used for the acceptance of gifts of real property, to formalize the parties' intentions and to provide protection for the State in the form of grantor representations and warranties, indemnification and agreement as to governing law. In this case, the State is acquiring this property from the long-term owner and has little reason to believe, based on knowledge regarding the history of the site and on the ESS review, that any significant physical or legal issues exist on the property that would adversely impact DPR's intended use. In particular, the property is currently vacant and unimproved and DPR is not aware of any pending lawsuits, relocation assistance or implied dedication rights that would be applicable to this property.

DPR has estimated the need for 7 positions and ongoing costs of \$1.3 million to provide historic public access to the property, patrol, resource management and protection, safety, interpretation/education, and maintenance. This includes one-time costs of \$200,000 for equipment and immediate public use facilities. Staff understands that DPR will be requesting funding for the above support costs through the normal budget change process. However, DPR has developed an interim management plan that will enable the Department to utilize existing resources to provide for a certain level of resource protection and public safety until such time that additional resources are available.

It should be noted that Public Resources Code sections 37021, 37023, and 37025, cited are no longer relevant to this action. These code sections apply only to the Junge Ranch portion of the overall transaction, which was at one time planned as a component of this project.

Hearst Ranch Conservation Transaction

As noted above, this no-cost acquisition constitutes only a portion of the multiple components, which together encompasses the entire 81,177 acre Hearst Ranch Conservation Transaction. However, DPR has indicated that the consummation of the overall Transaction as currently structured is dependent upon approval of each of the components by both the State and Hearst. That is, the State and Hearst must reach agreement on all of the components of the Transaction or else none of the components, including this no-cost acquisition, will proceed. The overall Transaction is generally described as follows:

- 1) West Side Conservation Transaction (West Side)**—Includes approximately 1,656 acres west of Highway 1 involving a combination of fee transfers and conservation easements. Components of the West Side include 949 acres (832 acres included in this acquisition and 117 acres included in the subsequent Junge Ranch acquisition) to be transferred in fee to DPR and subject to a scenic conservation easement to be held by Caltrans; 613 acres retained in fee by Hearst subject to a public access easement (included in this acquisition) to be held by DPR and a scenic conservation easement to be held by Caltrans; and 94 acres in the San Simeon Village Conservation Area subject to a public access easement to be acquired by DPR (included in this acquisition) and a separate conservation easement limiting use and development to be held by the American Land Conservancy (ALC);
- 2) East Side Conservation Easement (East Side)**—Includes approximately 79,500 acres east of Highway 1 to be protected by perpetual conservation easements. As part of the overall conservation transaction for the Hearst Ranch, the East Side easement will be purchased for a total cost of \$80 million plus \$15 million in tax credits via an option

agreement between the Hearst Corporation and the ALC. Through a Grant Agreement between the WCB and the ALC, the State of California will have on-going rights to ensure that the easements are enforced and the public investment is protected. ALC will acquire the East Side easement and transfer it at closing to the California Rangeland Trust (CRT), an agricultural land trust;

- 3) Realignment Area**—Includes approximately 518 acres that will be offered for dedication to the Department of Transportation (DOT) to accommodate future Highway 1 realignment projects and to allow the area under the highway to be abandoned as part of the realignment effort and to be used for future public access (this portion of the overall transaction is not included in this acquisition).

Proposed sources of funding for the entire Hearst Ranch Conservation Transaction will come from California voter-approved bond funds (Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002—Proposition 50) administered through the WCB and the SCC, Federal Transportation Enhancement funds controlled by the State, and State tax credits through the National Heritage Preservation Tax Credit program.

Tentative agreements have been reached between the major State parties (WCB, SCC, DPR, Caltrans), the Hearst Corporation, and the interested non-profits (ALC and CRT). The California Transportation Commission approved Caltrans' funding for the Transaction, and WCB and SCC have each taken actions to approve funding contingent upon resolution of various issues.

In particular, the WCB's approval is contingent upon the adoption of viewshed protection standards for buildings; adoption of management practices for range and agricultural operations within the East Side Conservation Easement Area; approval of a Baseline Conditions Report, and approval of a Monitoring Protocol within the East Side Conservation Easement, including standards for determining when Conservation Values have been "impaired." The SCC's approval of funding is contingent upon the resolution of WCB's concerns and upon obtaining increased restrictions on the ability of the holder of the East Side Conservation Easement (i.e., CRT or another non-profit) to assign, amend or terminate the Easement. In addition, SCC's funding approval is contingent upon reaching agreement with Hearst and Caltrans on increased public access opportunities on West Side properties and on obtaining authority for DPR to install necessary parking, restrooms and trash/recycling facilities on the State-owned property west of Highway 1.

It should be noted that the current draft of the Caltrans Conservation Easement for the 832 acres being acquired in fee by DPR on the west side of Highway 1 continues to be revised in an effort to reconcile the SCC's public access contingencies on approval of the DPR acquisition with Caltrans' funding requirements. The provisions being discussed relate to DPR's ability to install necessary public use facilities while at the same time protecting the scenic viewshed. While subsequent revisions to this document are anticipated, to the extent that changes relate primarily to these access issues and SCC and DPR agree that these revisions provide for necessary DPR public use facilities, Staff will not consider these changes to be significant for purposes of requiring a second Board approval so long as the nature of the State's overall liability under the Easement is not affected.

The parties intend to finalize the overall Transaction documents by the end of this calendar year. As a result, the actions by several of the relevant state boards, including WCB and SCC, were taken prior to, but contingent upon, the resolution of future issues and finalization of the Transaction documents.

Staff has completed its review of the Transaction documents as they now exist in draft form and has conducted the necessary due diligence to ensure that the terms and conditions of this acquisition are fully reviewed prior to the Board taking action. Based on this review, and assuming the form of the Transaction documents do not change significantly, the acceptance of this no-cost acquisition is clearly in the best interest of the State.

Staff Recommendation: **Recommend approval of the acquisition of real property through acceptance of a no-cost acquisition contingent upon the following:**

1. Expiration of the CEQA Notice of Exemption waiting period without challenge.
2. SPWB staff review and approval of the final versions of the following documents:
 - a. Corporation Gift Deed for 832 acre parcel
 - b. Agreement and Irrevocable Offer to Dedicate by Gift (Expansion Envelope) for 5 acres associated with Visitor's Center
 - c. Corporation Gift Deed for 2 acres associated with Visitor's Center
 - d. Deed of Public Access Conservation Easement and Agreement Concerning Public Access Easement Rights (for 707 acres)
 - e. Deed of Scenic Conservation Easement and Agreement Concerning Easement Rights (Pico Cove, Ragged Point, San Simeon Point, and Old San Simeon Village)
 - f. Deed of Scenic Conservation Easement and Agreement Concerning Easement Rights (West Side Public Ownership Area)

If the final form of the above documents is substantially changed, in the opinion of the SPWB staff, from the form of the documents, which served as the basis for the Staff's recommendation for approval, additional Board approval will be required.

Respectfully Submitted
By:

KAREN FINN
Administrative Secretary